

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
TOWN OF GREENBURGH,

Plaintiff,

-against-

SPECTRASERV, INC. and LIBERTY MUTUAL  
INSURANCE COMPANY,

Defendants.  
-----X

SPECTRASERV, INC. and LIBERTY MUTUAL  
INSURANCE COMPANY,

Third-Party Plaintiffs,

-against-

M.G. McLAREN, P.C. and DOLPH ROTFELD  
ENGINEERING, P.C.,

Third-Party Defendants.  
-----X

S I R S :

PLEASE TAKE NOTICE, that upon the annexed Declaration of Malcolm G. McLaren, P.E. executed on July 1, 2008 with exhibits thereto, the annexed Declaration of Martin A. Schwartzberg, Esq. dated July 11, 2008 with exhibits thereto, the memorandum of law, exhibits and the pleadings and proceedings herein, the undersigned will move this Court, before the Honorable William C. Conner, on a date to be determined by the Court at the courthouse located at 300 Quarropas Street, Courtroom 630, White Plains, New York, for an Order pursuant to F.R.C.P. 12(b)(6) and F.R.C.P. 56(b) seeking dismissal of the Third-Party Complaint in its entirety; and for such other and further relief that this Court deems just and proper.

**ECF CASE**  
07 Civ. 6966 (WCC)


**NOTICE OF MOTION**

PLEASE TAKE FURTHER NOTICE, that pursuant to the Local Rule 6.1(b) of this Court, opposing affidavits and answering memoranda shall be served within ten (10) business days after service of the moving papers.

DATED: Garden City, New York  
July 11, 2008

Respectfully submitted,

L'ABBATE, BALKAN, COLAVITA  
& CONTINI, L.L.P.  
Attorneys for Third-Party Defendant  
M.G. McLaren, P.C.

By:   
MARTIN A. SCHWARTZBERG (MAS-6764)  
Office & P.O. Address  
1001 Franklin Avenue, 3<sup>rd</sup> Floor  
Garden City, NY 11530  
(516) 294-8844

TO: MAZUR, CARP & RUBIN, P.C.  
Attorneys for Plaintiff  
1250 Broadway, Suite 3800  
New York, NY 10001

WOLFF & SAMSON, P.C.  
Attorneys for Defendants/Third-Party Plaintiffs  
One Boland Drive  
West Orange, NJ 07052

GOGICK, BYRNE & O'NEILL, LLP  
Attorneys for Third-Party Defendant Dolph Rotfeld Engineering, P.C.  
11 Broadway, Room 1560  
New York, NY 10004-1314

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

KAREN A. STAUDT, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Suffolk County, New York.


That on the 11<sup>th</sup> day of July, 2008, deponent served the within NOTICE OF MOTION with SUPPORTING PAPERS upon:

MAZUR, CARP & RUBIN, P.C.  
Attys for Plaintiff  
1250 Broadway, Suite 3800  
New York, NY 10001

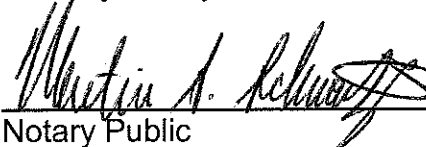
WOLFF & SAMSON, P.C.  
Attys for Defts/3<sup>rd</sup>-Party Plaintiffs  
One Boland Drive  
West Orange, NJ 07052

GOGICK, BYRNE & O'NEILL, LLP  
Attys for 3<sup>rd</sup>-Party Deft Rotfeld  
11 Broadway, Room 1560  
New York, NY 10004-1314

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

  
KAREN A. STAUDT

Sworn to before me this  
11<sup>th</sup> day of July, 2008

  
Notary Public

MARTIN A. SCHWARTZBERG  
Notary Public, State of New York  
No. 02SC4958786  
Qualified in Nassau County  
Commission Expires December 11, 2009